

Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of \$1,000, nor shall such imprisonment exceed the term of six months.

This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law.

For purposes of this section, the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 701; May 24, 1949, ch. 139, §8(c), 63 Stat. 90; Pub. L. 101-647, title XII, §1205(c), Nov. 29, 1990, 104 Stat. 4830; Pub. L. 103-322, title XXXIII, §§33001(f), 330016(2)(E), Sept. 13, 1994, 108 Stat. 2145, 2148.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on sections 386, 387, 389, and 390a of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §§1, 21, 22, 24, 38 Stat. 730, 738, 739).

Section 21 of the Clayton Act, section 386 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, is here consolidated with parts of sections 1, 22, and 24 of the same act. Section 1 of said act, section 390a of title 28 U.S.C., 1940 ed., Judicial Code and Judiciary, defined person or persons. Section 22 of said act, section 387 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, regulated the procedure and provided for the punishment of contempts. Section 24 of said act, section 389 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, limited the application of these sections to certain kinds of contempt.

In transferring these sections to this title and in consolidating them numerous changes of phraseology were necessary which do not, however, change their meaning or substance. Words “corporation or association” were inserted after “any person” in substitution for the definition provisions of section 390a of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, which read as follows: “The word ‘person’ or ‘persons’ wherever used in sections 381-383, 386-390a of this title, sections 12, 13, 14-19, 20, 21, 22-27 and 44 of title 15, and section 412 of title 18 shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.”

The words “any person, corporation, or association,” unqualified except by the context of the section mean all that the more lengthy definition included. Only those persons, corporations, and associations who were parties to the order or had actual notice of it may be punished for contempt. (See *McCauley v. First Trust & Savings Bank*, C.C.A. Ill. 1921, 276 F. 117. See, also *National Labor Relations Board v. Blackstone Mfg. Co.*, C.C.A. 1941, 123 F. 2d 633.) The fact that the contemnor was incorporated or organized under a foreign law or under the laws of a particular State or Territory would hardly be relevant to the issue of criminal contempt.

As noted above these sections were part of the Clayton Act, entitled “An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes.” Whatever doubt might have existed as to whether the contempt provisions were variously limited to antitrust cases seems to be dispelled by the case of *Sandefur v. Canoe Creek Coal Co.* (C.C.A. Ky. 1923, 293 F. 379, certified question answered 45 S. Ct. 18, 266 U.S. 42, 69 L. Ed. 162, 35 A.L.R. 451), where the court says: “The act, considered as a whole, covers several more or less distinct subjects. \* \* \* The first eight sections pertain directly to the subject of trust and monopolies; section 9 concerns interstate commerce; section 10, combinations among common carriers; section 11, proceedings to enforce certain provisions of the act; sections 12-16, antitrust procedure and remedies; sections 17-19, regulations of injunction and restraining orders in all cases; section 20 limits the power of an equity court to issue any injunction in a certain class of cases, viz., between employer and the employee; and sections 21-24 pertain to procedure in any district court, punishing contemptuous disregard of any order of such court, providing the act constituting contempt is also a criminal offense. Observing this relation of the various parts of the act to each other, we think ‘within the purview of this act’ must refer to that portion of the act which most broadly covers the subject-matter to which section 22 is devoted, and this portion is section 21, which reaches all cases where the act of contempt is also a criminal offense. We know of nothing in the legislative history of the act, or within the common knowledge as to the then existing situation, which justifies us in thinking that ‘within the purview of this act,’ in section 22, meant to limit its effect to the employer-employee provisions of section 20, or even to the antitrust scope of some of the earlier sections.” (See also *Michaelson v. United States*, 1924, 45 S. Ct. 18, 166 U.S. 42, 69 L. Ed. 162, 35 A.L.R. 451, and H. Rept. No. 613, 62d Cong., 2d sess., to accompany H.R. 15657.)

##### 1949 ACT

This amendment [see section 8] corrects the catchline of section 402 of title 18, U.S.C., to better represent the section content.

#### AMENDMENTS

1994—Pub. L. 103-322, §330016(2)(E), substituted “punished by a fine under this title” for “punished by fine” in first par.

Pub. L. 103-322, §330011(f), amended directory language of Pub. L. 101-647, §1205(c). See 1990 Amendment note below.

1990—Pub. L. 101-647, §1205(c), as amended by Pub. L. 103-322, §330011(f), added par. defining “State”.

1949—Act May 24, 1949, substituted “Contempts constituting crimes” for “Criminal contempts” in section catchline.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(f) of Pub. L. 103-322 provided that the amendment made by that section is effective as of the date on which section 1205(c) of Pub. L. 101-647, which amended this section, took effect.

### § 403. Protection of the privacy of child victims and child witnesses

A knowing or intentional violation of the privacy protection accorded by section 3509 of this title is a criminal contempt punishable by not more than one year’s imprisonment, or a fine under this title, or both.

(Added Pub. L. 101-647, title II, §225(b)(1), Nov. 29, 1990, 104 Stat. 4805.)

## CHAPTER 23—CONTRACTS

Sec.

431.

Contracts by Member of Congress.

- Sec.  
 432. Officer or employee contracting with Member of Congress.  
 433. Exemptions with respect to certain contracts.  
 [434. Repealed.]  
 435. Contracts in excess of specific appropriation.  
 436. Convict labor contracts.  
 [437. Repealed.]  
 438. Indian contracts for services generally.<sup>1</sup>  
 439. Indian enrollment contracts.<sup>1</sup>  
 440. Mail contracts.  
 441. Postal supply contracts.  
 442. Printing contracts.  
 443. War contracts.

## AMENDMENTS

1996—Pub. L. 104-178, §1(b), Aug. 6, 1996, 110 Stat. 1565, struck out item 437 “Federal employees contracting or trading with Indians”.

1994—Pub. L. 103-322, title XXXIII, §330010(13), Sept. 13, 1994, 108 Stat. 2144, struck out extraneous period after “Indians” in item 437.

1990—Pub. L. 101-647, title XXXV, §3512, Nov. 29, 1990, 104 Stat. 4922, struck out item 434 “Interested persons acting as Government agents” and substituted “Federal employees contracting or trading with Indians.” for “Indian contracts for goods and supplies” in item 437.

1951—Act Oct. 31, 1951, ch. 655, §18, 65 Stat. 717, struck out “; exceptions” from item 431.

**§ 431. Contracts by Member of Congress**

Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, directly or indirectly, himself, or by any other person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in whole or in part, any contract or agreement, made or entered into in behalf of the United States or any agency thereof, by any officer or person authorized to make contracts on its behalf, shall be fined under this title.

All contracts or agreements made in violation of this section shall be void; and whenever any sum of money is advanced by the United States or any agency thereof, in consideration of any such contract or agreement, it shall forthwith be repaid; and in case of failure or refusal to repay the same when demanded by the proper officer of the department or agency under whose authority such contract or agreement shall have been made or entered into, suit shall at once be brought against the person so failing or refusing and his sureties for the recovery of the money so advanced.

(June 25, 1948, ch. 645, 62 Stat. 702; Oct. 31, 1951, ch. 655, §19, 65 Stat. 717; Pub. L. 103-322, title XXXIII, §330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §204 (Mar. 4, 1909, ch. 321, §114, 35 Stat. 1109).

Word “agency” was inserted in three places to eliminate any ambiguity as to scope of section. (See definition of department or agency under section 6 of this title.)

Minor changes were made in phraseology.

## AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$3,000” in first par.

<sup>1</sup> Section repealed by Pub. L. 106-568 without corresponding amendment of chapter analysis.

1951—Act Oct. 31, 1951, struck out “; exceptions”, after “Congress” in section catchline.

**§ 432. Officer or employee contracting with Member of Congress**

Whoever, being an officer or employee of the United States, on behalf of the United States or any agency thereof, directly or indirectly makes or enters into any contract, bargain, or agreement, with any Member of or Delegate to Congress, or any Resident Commissioner, either before or after he has qualified, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 702; Pub. L. 103-322, title XXXIII, §330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §205 (Mar. 4, 1909, ch. 321, §115, 35 Stat. 1109).

Words “agency” and “employee” were inserted to eliminate any ambiguity as to scope of section. (See definition of agency under section 6 of this title.)

Changes were made in phraseology.

## AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$3,000”.

**§ 433. Exemptions with respect to certain contracts**

Sections 431 and 432 of this title shall not extend to any contract or agreement made or entered into, or accepted by any incorporated company for the general benefit of such corporation; nor to the purchase or sale of bills of exchange or other property where the same are ready for delivery and payment therefor is made at the time of making or entering into the contract or agreement. Nor shall the provisions of such sections apply to advances, loans, discounts, purchase or repurchase agreements, extensions, or renewals thereof, or acceptances, releases or substitutions of security therefor or other contracts or agreements made or entered into under the Reconstruction Finance Corporation Act, the Agricultural Adjustment Act, the Federal Farm Loan Act, the Emergency Farm Mortgage Act of 1933, the Farm Credit Act of 1933, or the Home Owners Loan Act of 1933, the Farmers’ Home Administration Act of 1946, the Bankhead-Jones Farm Tenant Act, or to crop insurance agreements or contracts or agreements of a kind which the Secretary of Agriculture may enter into with farmers.

Any exemption permitted by this section shall be made a matter of public record.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 87-353, §3(o), Oct. 4, 1961, 75 Stat. 774.)

## HISTORICAL AND REVISION NOTES

Based on section 1514(f) of title 7, U.S.C., 1940 ed., Agriculture; sections 264w, 598, 1138d(e), 1441(e), 1467(d) of title 12, U.S.C., 1940 ed., Banks and Banking; section 616(e) of title 15, U.S.C., 1940 ed., Commerce and Trade; title 18, U.S.C., 1940 ed., §206 (Mar. 4, 1909, ch. 321, §116, 35 Stat. 1109; Dec. 23, 1913, ch. 6, §22(j), as added June 19, 1934, ch. 653, §3, 48 Stat. 1107; Jan. 22, 1932, ch. 8, §16(e), 47 Stat. 12; July 22, 1932, ch. 522, §21, 47 Stat. 738; June 13, 1933, ch. 64, §8, 48 Stat. 135; June 16, 1933, ch. 98, §64, 48 Stat. 268, 269; Jan. 25, 1934, ch. 5, 48 Stat. 337; Jan. 31, 1934, ch. 7, §13, 48 Stat. 347; June 27, 1934, ch.

847, title V, §510, 58 Stat. 1264; May 28, 1935, ch. 150, §§20, 21, 49 Stat. 298; Aug. 23, 1935, ch. 614, §101, 49 Stat. 703; Aug. 26, 1937, ch. 821, 50 Stat. 838; Feb. 16, 1938, ch. 30, title V, §514, 52 Stat. 77).

These sections were consolidated with such changes of phraseology as were necessary to effect consolidation. Said section 206 of title 18, U.S.C., 1940 ed., was the principal source of this section, but the enumeration of the kinds of commitments exempted was drawn from the various sections of said title 12 set forth above. The reference to crop insurance agreements is drawn from section 1514(f) of Title 7, Agriculture.

The applicability provisions of the sections here consolidated were unclear and of doubtful value. As revised the section preserves everything of value without change of substance.

References to the Bankhead-Jones Farm Tenant Act and the Farmers' Home Administrative Act of 1946 were included in this revised section notwithstanding the omission (and consequent repeal) of former subsection (d) of section 52 of the said Bankhead-Jones Act (1937) (Title 7, U.S.C., 1940 ed., §1026) in the amendment of said section 52 of such Act by section 3 of the said Farmers' Home Administration Act of 1946 (August 14, 1946, ch. 964, 60 Stat. 1062). The essential nature of the transactions under the several acts would render inconsistent any attempt to include some and exclude others.

#### REFERENCES IN TEXT

The Reconstruction Finance Corporation Act, referred to in text, is act Jan. 22, 1932, ch. 8, 47 Stat. 5, as amended, which was classified to chapter 14 (§601 et seq.) of Title 15, Commerce and Trade, and has been eliminated from the Code. For complete classification of this Act prior to its elimination from the Code, see Tables.

The Agricultural Adjustment Act, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 7 and Tables.

The Federal Farm Loan Act, referred to in text, is act July 17, 1916, ch. 245, 39 Stat. 360, as amended, which was classified principally to sections 641 et seq. of Title 12, Banks and Banking. The Federal Farm Loan Act, as amended, was repealed by section 5.26(a) of the Farm Credit Act of 1971, Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 624. Section 5.26(a) of the Farm Credit Act of 1971 also provided that all references in other legislation to the Acts repealed thereby "shall be deemed to refer to comparable provisions of this Act". For further details, see notes under section 2001 of Title 12. For complete classification of the Federal Farm Loan Act to the Code prior to such repeal, see Tables.

The Emergency Farm Mortgage Act of 1933, referred to in text, is title II of act May 12, 1933, ch. 25, 48 Stat. 31, as amended. Such title II was substantially repealed by act June 30, 1947, ch. 166, title II, §206(c), 61 Stat. 208; act Aug. 6, 1953, ch. 335, §19, 67 Stat. 400; act Oct. 4, 1961, Pub. L. 87-353, §3(a), (b), (w), 75 Stat. 773, 774; act Dec. 10, 1971, Pub. L. 92-181, title V, §5.26(a), 85 Stat. 624. For complete classification of this Act to the Code, see Tables.

The Farm Credit Act of 1933, referred to in text, is act June 16, 1933, ch. 98, 48 Stat. 2, as amended, which was classified principally to subchapter IV (§1131 et seq.) of chapter 7 of Title 12, Banks and Banking. The Farm Credit Act of 1933, as amended, was repealed by section 5.26(a) of the Farm Credit Act of 1971, Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 624. Section 5.26(a) of the Farm Credit Act of 1971 also provided that all references in other legislation to the Acts repealed thereby "shall be deemed to refer to comparable provisions of this Act". For further details, see notes under section 2001 of Title 12. For complete classification of the Farm Credit Act of 1933 to the Code prior to such repeal, see Tables.

The Home Owners Loan Act of 1933, referred to in text, is act June 13, 1933, ch. 64, 48 Stat. 128, as amend-

ed, now known as the Home Owners' Loan Act, which is classified generally to chapter 12 (§1461 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1461 of Title 12 and Tables.

The Farmers' Home Administration Act of 1946, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended. Such Act was substantially repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and act Aug. 8, 1961, Pub. L. 87-128, title III, §341(a), 75 Stat. 318. For complete classification of this Act to the Code, see Tables.

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§1000 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

#### AMENDMENTS

1961—Pub. L. 87-353 struck out "the Federal Farm Mortgage Corporation Act," after "the Emergency Farm Mortgage Act of 1933,".

#### ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, which was created by the Reconstruction Finance Corporation Act, referred to in this section, was abolished by section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

#### ABOLITION OF HOME OWNERS' LOAN CORPORATION

The Home Owners' Loan Corporation, which was created by the Home Owners' Loan Act of 1933, referred to in this section, was dissolved and abolished by act June 30, 1953, ch. 170, §21, 67 Stat. 126, set out in note under section 1463 of Title 12, Banks and Banking.

#### **[§ 434. Repealed. Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126]**

Section, act June 25, 1948, ch. 645, 62 Stat. 703, related to interested persons acting as Government agents. Section was supplanted by section 208 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as an Effective Date note under section 201 of this title.

#### **§ 435. Contracts in excess of specific appropriation**

Whoever, being an officer or employee of the United States, knowingly contracts for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose, shall be fined under this title<sup>1</sup> or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §184 (Mar. 4, 1909, ch. 321, §98, 35 Stat. 1106).

Words "or employee" were inserted to remove any ambiguity as to scope of section.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from \$2,000 to \$1,000 and from 2 years to 1 year, so that the stigma of a felony would not attach to an offender. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

<sup>1</sup> See 1994 Amendment note below.

Mandatory punishment provisions were rephrased in the alternative.

Changes were also made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

### § 436. Convict labor contracts

Whoever, being an officer, employee, or agent of the United States or any department or agency thereof, contracts with any person or corporation, or permits any warden, agent, or official of any penal or correctional institution, to hire out the labor of any prisoners confined for violation of any laws of the United States, shall be fined under this title<sup>1</sup> or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 708, 709 (Feb. 23, 1887, ch. 213, §§ 1, 2, 24 Stat. 411).

This section consolidates sections 708 and 709 of title 18, U.S.C., 1940 ed., as the offense and penalty provisions, respectively.

Words “department or agency thereof” were inserted to clarify scope of section. See definition of department and agency in section 6 of this title.

To retain uniformity words “shall be deemed guilty of a misdemeanor, and,” were omitted. The reference to misdemeanor is now covered by the definition in section 1 of this title.

Words “on conviction thereof” were omitted as unnecessary since punishment can follow only upon conviction.

The minimum punishment provisions “less than one year nor” and “less than \$500 nor” were deleted to conform to the policy followed by codifiers of 1909 Criminal Code. (See reviser’s note under section 203 of this title.)

Changes were also made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

### [§ 437. Repealed. Pub. L. 104-178, § 1(a), Aug. 6, 1996, 110 Stat. 1565]

Section, acts June 25, 1948, ch. 645, 62 Stat. 703; June 17, 1980, Pub. L. 96-277, § 1, 94 Stat. 544; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, § 330016(1)(L), 108 Stat. 2147, related to Federal employees contracting or trading with Indians.

#### EFFECTIVE DATE OF REPEAL

Section 1(c) of Pub. L. 104-178 provided that: “The repeal made by subsection (a) [repealing this section] shall—

“(1) take effect on the date of enactment of this Act [Aug. 6, 1996]; and

“(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act.”

<sup>1</sup> See 1994 Amendment note below.

### [§§ 438, 439. Repealed. Pub. L. 106-568, title VIII, § 812(c)(2), Dec. 27, 2000, 114 Stat. 2917]

Section 438, acts June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147, related to Indian contracts for services generally.

Section 439, acts June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147, related to Indian enrollment contracts.

### § 440. Mail contracts

Whoever, being a person employed in the Postal Service, becomes interested in any contract for carrying the mail, or acts as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service, shall be fined under this title<sup>1</sup> or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 91-375, § 6(j)(3), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 356 (Mar. 4, 1909, ch. 321, § 226, 35 Stat. 1134).

Provision for dismissal from office was omitted since this might be handled better administratively.

Changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$10,000”, was executed by making the substitution for “fined not more than \$5,000”, to reflect the probable intent of Congress.

1970—Pub. L. 91-375 substituted “Postal Service” for “Post Office Department” before “, shall be fined”.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

### § 441. Postal supply contracts

No contract for furnishing supplies to the Postal Service shall be made with any person who has entered, or proposed to enter, into any combination to prevent the making of any bid for furnishing such supplies, or to fix a price or prices therefor, or who has made any agreement, or given or performed, or promised to give or perform, any consideration whatever to induce any other person not to bid for any such contract, or to bid at a specified price or prices thereon.

Whoever violates this section shall be fined under this title<sup>1</sup> or imprisoned not more than one year, or both; and if the offender is a contractor for furnishing such supplies his contract may be annulled.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 91-375, § 6(j)(4), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

<sup>1</sup> See 1994 Amendment note below.

<sup>1</sup> See 1994 Amendment note below.

## HISTORICAL AND REVISION NOTES

Based on section 808 of title 39, U.S.C., 1940 ed., The Postal Service (Aug. 24, 1912, ch. 389, § 2, 37 Stat. 553).

Minimum punishment provisions “less than \$100 nor” and “less than three months nor” were omitted to conform to policy followed by codifiers of 1909 Criminal Code.

Changes in phraseology were also made.

## AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$10,000”, was executed by making the substitution for “fined not more than \$5,000” in second par., to reflect the probable intent of Congress.

1970—Pub. L. 91-375 struck out “Post Office Department or the” before “Postal Service”.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

## § 442. Printing contracts

Neither the Public Printer, superintendent of printing, superintendent of binding, nor any of their assistants shall, during their continuance in office, have any interest, direct or indirect, in the publication of any newspaper or periodical, or in any printing, binding, engraving, or lithographing of any kind, or in any contract for furnishing paper or other material connected with the public printing, binding, lithographing, or engraving.

Whoever violates this section shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

Based on section 53 of title 44, U.S.C., 1940 ed., Public Printing and Documents (Jan. 12, 1895, ch. 23, § 34, 28 Stat. 605).

Words “on conviction before any court of competent jurisdiction” were omitted as unnecessary, since punishment cannot be imposed until there has been a conviction before a competent tribunal.

Words “in the penitentiary” were omitted as surplusage as section 4082 of this title commits all prisoners to the custody of the Attorney General. (See reviser’s note under section 1 of this title.)

The minimum punishment provision “for a term of not less than one nor” was omitted in keeping with policy of codifiers of 1909 Criminal Code.

Mandatory punishment provision was rephrased in the alternative.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from 5 years to 1 year, so that the stigma of a felony would not attach to an offender. The fine was increased from \$500 to \$1,000 as more proportionate to the 1-year term of imprisonment. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

## AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” in second par.

## § 443. War contracts

Whoever willfully secretes, mutilates, obliterates, or destroys—

(a) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or other termination, or settlement of a war contract of \$25,000 or more; or

(b) any records of a war contractor or purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any government agency is \$5,000 or more,

before the lapse of (1) five years after such disposition of termination inventory by such war contractor or government agency, or (2) five years after the final settlement of such war contract, whichever applicable period is longer, shall be fined under this title or imprisoned not more than five years, or both.

The Administrator of General Services, by regulation, may authorize the destruction of such records upon such terms and conditions as he deems appropriate, including the requirement for the making and retaining of photographs or microphotographs, which shall have the same force and effect as the originals thereof.

The definitions of terms in section 103<sup>1</sup> of Title 41 shall apply to similar terms used in this section.

(June 25, 1948, ch. 645, 62 Stat. 704; Oct. 31, 1951, ch. 655, § 20(a), 65 Stat. 717; Pub. L. 103-322, title XXXIII, §§ 330004(17), 330016(2)(F), Sept. 13, 1994, 108 Stat. 2142, 2148.)

## HISTORICAL AND REVISION NOTES

Based on section 119, first and second paragraphs, of title 41 U.S.C., 1940 ed., Public Contracts (July 1, 1944, ch. 358, § 19(a), 58 Stat. 667).

Section was rewritten with changes of phraseology to conform to the style adopted in the revision.

The definition of “records” was omitted as surplusage in order to avoid any inference that “records” as used in other sections was intended to have a different or more limited connotation than the broad and commonly understood meaning popularly assigned to the term.

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of Title 41, Public Contracts.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

## REFERENCES IN TEXT

Section 103 of Title 41, referred to in text, probably means section 3 of act July 1, 1944, ch. 358, 58 Stat. 650, which was classified to section 103 of former Title 41, Public Contracts, prior to repeal by Pub. L. 111-350, § 7(b), Jan. 4, 2011, 124 Stat. 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

## AMENDMENTS

1994—Pub. L. 103-322, in concluding provisions of first par., struck out “or (3) five years after 12 o’clock noon of December 31, 1946,” after “of such war contract,” and substituted “shall be fined under this title” for “shall, if a corporation, be fined not more than \$50,000, and, if a natural person, be fined not more than \$10,000”.

1951—Act Oct. 31, 1951, substituted “12 o’clock noon of December 31, 1946” for “the termination of hostilities

<sup>1</sup> See References in Text note below.

in the present war as proclaimed by the President or by a concurrent resolution of the two Houses of Congress”, and, in penultimate paragraph, substituted “Administrator of General Services” for “Director of Contract Settlement”.

## CHAPTER 25—COUNTERFEITING AND FORGERY

- Sec.  
470. Counterfeit acts committed outside the United States.  
471. Obligations or securities of United States.  
472. Uttering counterfeit obligations or securities.  
473. Dealing in counterfeit obligations or securities.  
474. Plates, stones, or analog, digital, or electronic images for counterfeiting obligations or securities.  
474A. Deterrents to counterfeiting of obligations and securities.  
475. Imitating obligations or securities; advertisements.  
476. Taking impressions of tools used for obligations or securities.  
477. Possessing or selling impressions of tools used for obligations or securities.  
478. Foreign obligations or securities.  
479. Uttering counterfeit foreign obligations or securities.  
480. Possessing counterfeit foreign obligations or securities.  
481. Plates, stones, or analog, digital, or electronic images for counterfeiting foreign obligations or securities.  
482. Foreign bank notes.  
483. Uttering counterfeit foreign bank notes.  
484. Connecting parts of different notes.  
485. Coins or bars.  
486. Uttering coins of gold, silver or other metal.  
487. Making or possessing counterfeit dies for coins.  
488. Making or possessing counterfeit dies for foreign coins.  
489. Making or possessing likeness of coins.  
490. Minor coins.  
491. Tokens or paper used as money.  
492. Forfeiture of counterfeit paraphernalia.  
493. Bonds and obligations of certain lending agencies.  
494. Contractors’ bonds, bids, and public records.  
495. Contracts, deeds, and powers of attorney.  
496. Customs matters.  
497. Letters patent.  
498. Military or naval discharge certificates.  
499. Military, naval, or official passes.  
500. Money orders.  
501. Postage stamps, postage meter stamps, and postal cards.  
502. Postage and revenue stamps of foreign governments.  
503. Postmarking stamps.  
504. Printing and filming of United States and foreign obligations and securities.  
505. Seals of courts; signatures of judges or court officers.  
506. Seals of departments or agencies.  
507. Ship’s papers.  
508. Transportation requests of Government.  
509. Possessing and making plates or stones for Government transportation requests.  
510. Forging endorsements on Treasury checks or bonds or securities of the United States.  
511. Altering or removing motor vehicle identification numbers.  
511A. Unauthorized application of theft prevention decal or device.  
512. Forfeiture of certain motor vehicles and motor vehicle parts.  
513. Securities of the States and private entities.

- Sec.  
514. Fictitious obligations.

### AMENDMENTS

2001—Pub. L. 107–56, title III, §§374(e)(4), 375(d)(4), Oct. 26, 2001, 115 Stat. 340, 341, substituted “, stones, or analog, digital, or electronic images” for “or stones” in items 474 and 481.

1996—Pub. L. 104–208, div. A, title I, §101(f) [title VI, §648(b)(2)], title II, §2603(b)(2), Sept. 30, 1996, 110 Stat. 3009–314, 3009–368, 3009–470, amended analysis identically, adding item 514.

1994—Pub. L. 103–322, title XII, §120003(b)(1), title XXII, §220003(d)(2), title XXXIII, §330010(14), Sept. 13, 1994, 108 Stat. 2022, 2077, 2144, added item 470, struck out extraneous period after “money” in item 491, and added item 511A.

1992—Pub. L. 102–550, title XV, §1553(b), Oct. 28, 1992, 106 Stat. 4071, added item 474A.

1990—Pub. L. 101–647, title XXXV, §3513, Nov. 29, 1990, 104 Stat. 4922, substituted “or paper used as money.” for “used as money or similar to coins” in item 491, “matters” for “entry certificates” in item 496, and “stamps, postage meter stamps,” for “stamps” in item 501.

1986—Pub. L. 99–646, §31(b), Nov. 10, 1986, 100 Stat. 3598, redesignated second item 510, relating to securities of the State and private entities, as item 513 and substituted “States” for “State”.

1984—Pub. L. 98–547, title II, §201(b), Oct. 25, 1984, 98 Stat. 2770, added items 511 and 512.

Pub. L. 98–473, title II, §1105(b), Oct. 12, 1984, 98 Stat. 2145, added second item 510 “Securities of the State and private entities”.

1983—Pub. L. 98–151, §115(c), Nov. 14, 1983, 97 Stat. 977, added item 510, relating to forging endorsements.

1965—Pub. L. 89–81, title II, §211(b), July 23, 1965, 79 Stat. 257, struck out “Gold or silver” before “Coins or bars” in item 485.

1958—Pub. L. 85–921, §2, Sept. 2, 1958, 72 Stat. 1771, substituted “Printing and filming of United States and foreign obligations and securities” for “Printing stamps for philatelic purposes” in item 504.

1951—Act July 16, 1951, ch. 226, §5(c), 65 Stat. 122, struck out “; publisher’s illustrations excepted” in item 489.

### § 470. Counterfeit acts committed outside the United States

A person who, outside the United States, engages in the act of—

(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

(2) making, dealing, or possessing any plate, stone, analog, digital, or electronic image, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be punished as is provided for the like offense within the United States.

(Added Pub. L. 103–322, title XII, §120003(a), Sept. 13, 1994, 108 Stat. 2021; amended Pub. L. 107–56, title III, §374(a), Oct. 26, 2001, 115 Stat. 340.)

### AMENDMENTS

2001—Pub. L. 107–56, §374(a)(2), in concluding provisions, substituted “shall be punished as is provided for the like offense within the United States” for “shall be fined under this title, imprisoned not more than 20 years, or both”.

Par. (2). Pub. L. 107–56, §374(a)(1), inserted “analog, digital, or electronic image,” after “plate, stone,”.

### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–550, title XV, §1551, Oct. 28, 1992, 106 Stat. 4070, provided that: “This subtitle [subtitle E